

AMENDED IN SENATE AUGUST 17, 2006

AMENDED IN ASSEMBLY MAY 1, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2263

Introduced by Assembly Member Spitzer

(Coauthors: Assembly Members ~~Cogdill~~, *Baca*, *Bermudez*, *Bogh*, *Cogdill*, *Cohn*, *Daucher*, *DeVore*, *Garcia*, *Shirley Horton*, ~~La Suer~~, *Huff*, *La Malfa*, *La Suer*, *Lieu*, *Maze*, *Mountjoy*, *Nakanishi*, *Strickland*, *Villines*, *Walters*, and *Wyland*)

(Coauthors: Senators *Battin*, *Cox*, *Dutton*, *Harman*, and *Morrow*)

February 22, 2006

An act to amend Section 290.95 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2263, as amended, Spitzer. Sex offenders: working with minors.

Under existing law, a person who is required to register as a sex offender who applies or accepts a position as an employee or volunteer with any person, group, or organization where he or she would be working directly and in an unaccompanied setting with minor children on a regular basis, is required to disclose his or her registrant status. A violation of that provision is a misdemeanor.

This bill would require every person required to register as a sex offender who applies *for* or accepts a position as an employee or volunteer with any person, group, or organization where the applicant would be working directly and in an accompanied setting with minor

children, and the applicant's work would require him or her to touch the minor children on more than an incidental and occasional basis, to disclose his or her status as a registrant, upon application or acceptance of the position, to that person, group, or organization.

This bill would incorporate additional changes to Section 290.95 of the Penal Code proposed by AB 1900 contingent on the prior enactment of that bill.

Because the bill would expand the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.95 of the Penal Code is amended to
2 read:

3 290.95. (a) Every person required to register under Section
4 290, who applies or accepts a position as an employee or
5 volunteer with any person, group, or organization where the
6 registrant would be working directly and in an unaccompanied
7 setting with minor children on more than an incidental and
8 occasional basis or have supervision or disciplinary power over
9 minor children, shall disclose his or her status as a registrant,
10 upon application or acceptance of a position, to that person,
11 group, or organization.

12 (b) Every person required to register under Section 290 who
13 applies or accepts a position as an employee or volunteer with
14 any person, group, or organization where the applicant would be
15 working directly and in an accompanied setting with minor
16 children, and the applicant's work would require him or her to
17 touch the minor children on more than an incidental and
18 occasional basis, shall disclose his or her status as a registrant,
19 upon application or acceptance of the position, to that person,
20 group, or organization.

1 (c) No person who is required to register under Section 290
2 because of a conviction for a crime where the victim was a minor
3 under 16 years of age shall be an employee or act as a volunteer
4 with any person, group, or organization where the registrant
5 would be working directly and in an unaccompanied setting with
6 minor children on more than an incidental and occasional basis
7 or have supervision or disciplinary power over minor children.

8 (d) A violation of this section is a misdemeanor punishable by
9 imprisonment in a county jail for not exceeding six months, by a
10 fine not exceeding one thousand dollars (\$1,000), or by both that
11 imprisonment and fine, and a violation of this section shall not
12 constitute a continuing offense.

13 *SEC. 1.5. Section 290.95 of the Penal Code is amended to*
14 *read:*

15 290.95. (a) Every person required to register under Section
16 290, who applies or accepts a position as an employee or
17 volunteer with any person, group, or organization where the
18 registrant would be working directly and in an unaccompanied
19 setting with minor children on more than an incidental and
20 occasional basis or have supervision or disciplinary power over
21 minor children, shall disclose his or her status as a registrant,
22 upon application or acceptance of a position, to that person,
23 group, or organization.

24 *(b) Every person required to register under Section 290 who*
25 *applies for or accepts a position as an employee or volunteer*
26 *with any person, group, or organization where the applicant*
27 *would be working directly and in an accompanied setting with*
28 *minor children, and the applicant's work would require him or*
29 *her to touch the minor children on more than an incidental basis,*
30 *shall disclose his or her status as a registrant, upon application*
31 *or acceptance of the position, to that person, group, or*
32 *organization.*

33 ~~(b)~~

34 (c) No person who is required to register under Section 290
35 because of a conviction for a crime where the victim was a minor
36 under 16 years of age shall be an *employer*, employee, or
37 *independent contractor*, or act as a volunteer with any person,
38 group, or organization ~~where~~ *in a capacity in which* the registrant
39 would be working directly and in an unaccompanied setting with
40 minor children on more than an incidental and occasional basis

1 or have supervision or disciplinary power over minor children.
2 *This subdivision shall not apply to a business owner or an*
3 *independent contractor who does not work directly in an*
4 *unaccompanied setting with minors.*

5 (e)

6 (d) A violation of this section is a misdemeanor punishable by
7 imprisonment in a county jail for not exceeding six months, by a
8 fine not exceeding one thousand dollars (\$1,000), or by both that
9 imprisonment and fine, and a violation of this section shall not
10 constitute a continuing offense.

11 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
12 *Section 290.95 of the Penal Code proposed by both this bill and*
13 *AB 1900. It shall become effective only if (1) both bills are*
14 *enacted and become effective on or before January 1, 2007, (2)*
15 *each bill amends Section 290.95 of the Penal Code, and (3) this*
16 *bill is enacted after AB 1900, in which case Section 1 of this bill*
17 *shall not become operative.*

18 ~~SEC. 2.~~

19 *SEC. 3.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the
24 penalty for a crime or infraction, within the meaning of Section
25 17556 of the Government Code, or changes the definition of a
26 crime within the meaning of Section 6 of Article XIII B of the
27 California Constitution.